

FISCAL IMPACT STATEMENT ON BILL NO. **S669**

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TO:	The Honorable Glenn McConnell, Chairman, Senate Judiciary Committee		
FROM:	Office of State Budget, Budget and Control Board		
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DATE:	May 6, 2005	SBD:	2005352

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AUTHOR:	Senator Reese	PRIMARY CODE CITE:	1-11-490
SUBJECT:	Notification Upon Breach of Security of Computerized Data		

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ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:  
See Below

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:  
See Below

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**BILL SUMMARY:**

The proposed Bill amends the Code of Laws of South Carolina, 1976, by adding Section 1-11-490 so as to provide for a notice to a South Carolina resident whose personal identifying information may have been accessed through a breach of security of computerized data owned by a state agency or a person conducting business in the state.

**EXPLANATION OF IMPACT:**

The following agencies represent some of those most likely significantly impacted by the requirements of this Bill if a breach of security occurred. The actual cost to these agencies and the state depends on the number of times there is such a breach, if any, and the number of persons to be notified. Sizable notification would likely result in use of substitute notification as allowed under 39-1-90 (E)(3) of the Bill.

Judicial Department

The Department indicates there will be a minimal impact on the General Fund of the State, which the agency can absorb at the current level of funding.

The Office of the State Treasurer

The Office reports this Bill will have no impact on the General Fund of the State, or on Federal and/or Other Funds.

State Budget and Control Board (Board)

A review of this Bill by Board staff indicates there will be no impact on the General Fund of the State. However, because of the type of records subject to any breaches of security there may be an impact on other funds. Should a breach occur, it would cost approximately \$.31 to \$.65 per person to notify depending upon the system and number of persons to notify. As provided by the Bill, if the cost should exceed \$250,000 or the number of persons to be notified exceeds 500,000, the Board would likely use the substitute notice process and use statewide media or post notices on Board websites.

#### Department of Archives & History

The Department estimates this Bill would have a \$45,030 cost in Non-Recurring and Recurring General Funds for one breach of security. The Recurring General Fund cost is estimated to be \$28,780 for an administrative assistant to prepare and process mailings. Non-Recurring General Fund cost is estimated at \$16,280 for postage for mailings to the clients and patrons for each breach of security. The number of times there may be a breach is unknown.

#### Department of Health and Human Services (DHHS)

The Department anticipates the impact of this Bill to be minimal. The fiscal impact is dependent upon the number of Medicaid eligibles involved. Currently, DHHS has over 1 million Medicaid eligible clients. Depending upon the actual number of eligibles whose information is breached; the amount per notification could exceed the \$250,000 maximum. In such cases, DHHS would likely invoke the alternative substitute notice involving statewide media. In addition to the notification costs, the maximum of \$600,000 in damages could be awarded under the current South Carolina Tort Claims Act.

#### Department of Social Services

The Department indicates this Bill would require additional funding totaling \$902,464 for each incidence of security breach. State General Funds required would total \$315,862 and Federal Funds would total \$586,601 based on 2.5 million cases. Costs would cover material needed for written notification of \$882,102 and computer programming and usage fee \$20,362. However, in such cases the department would likely use the alternative substitute notice options as both the cost estimate and the affected class exceed the maximums outlined in the Bill.

#### The Department of Revenue

The Department reports implementation of this Bill will require \$3,000 annually from the General Fund, which the agency can absorb at its current level of funding.

#### Employment Security Commission (ESC)

The Commission estimates this Bill would have a \$312,475 cost in Federal/Other Funds. This cost is estimated to be \$310,000 for postage/supplies for mailings to their clients and \$2,475 for mail room costs. As this cost exceeds the \$250,000 maximum notification cost as outlined in the Bill, the ESC may invoke the alternative substitute notice involving statewide media. There is the potential for further costs after the initial notification, in the areas of lawsuits and responses to individuals requesting further information.

#### **LOCAL GOVERNMENT IMPACT:**

None.

#### **SPECIAL NOTES:**

None.

Approved by:



Don Addy  
Assistant Director, Office of State Budget